IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 28TH SEPTEMBER 2007 / 6TH ASWINA 1929

Crl.MC.No. 2810 of 2007()

(CRIME NO.332/2007 OF THE HARBOUR POLICE STATION ON THE FILE OF HON'BLE JUDICIAL 1ST CLASS MAGISTRATE COURT I, ERNAKULAM)

PETITIONER:

PETRAQ NASTAS,
MASTER OF THE VESSEL 'MV MARIA', NOW AT COCHIN AND CONTACT ADDRESS THROUGH AGENT KINSHIP SERVICES PVT. LTD., W/ISLAND, COCHIN-9.

BY ADV. SRI.V.J.MATHEW
SRI.BIJISH B.TOM

RESPONDENTS:

1. **SUB INSPECTOR OF POLICE,**
   HARBOUR POLICE STATION, W/ISLAND, COCHIN-3.

2. **COMMISSIONER OF POLICE,**
   COCHIN CITY, ERNAKULAM.

3. **STATE OF KERALA,**
   REP. BY ITS SECRETARY, HOME DEPARTMENT.

4. **DY. CONSERVATOR,**
   COCHIN PORT TRUST, W/ISLAND, COCHIN-9.

5. **THE BOARD OF TRUSTEES,**
   COCHIN PORT TRUST, W/ISLAND, COCHIN-9,
   REP. BY ITS CHAIRMAN.

BY DIRECTOR GENERAL OF PROSECTUION SRI.P.G.THAMPI
BY ADV. SRI.A.M.SHAFFIQUE
SRI.E.K.NANDAKUMAR
SRI.A.K.JAYASANKAR NAMBIAR

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 28/09/2007,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R. BASANT, J.

Crl.M.C. No. 2810 OF 2007

Dated this the 28th day of September, 2007

ORDER

The petitioner is the Master of a vessel `MV. Maria S' which sank within the waters of Cochin Port Trust on 30/6/07. On a complaint lodged by the Cochin Port Trust, an F.I.R. has been registered as Crime No.332/07 of the Harbour Police Station, Cochin City. Annexure-4 is the complaint filed by the Cochin Port Trust before the learned Chief Judicial Magistrate, Ernakulam. That complaint, in turn, was forwarded to the police by the learned Magistrate under Sec.156(3) of the Cr.P.C. It is on that complaint that Annexure-5 - F.I.R. was registered. In the F.I.R. which was registered it is noted that the crime is registered under the Foreigners Order. The petitioner herein is the 2nd accused arrayed in the F.I.R.

2. The 1st accused, who is the owner of the ship, had

come before this Court with a prayer to quash the F.I.R. in so far as it relates to him by invoking the powers under Sec.482 of the Cr.P.C. By order dated 17/8/07 in Crl.M.C.No.2304/07, the said petition was allowed and the F.I.R. in so far as it relates to the said petitioner/the 1st accused/the owner of the ship, was quashed.

3. The petitioner/the 2nd accused/Master of the ship, has now come before this Court with a prayer that the F.I.R. in so far as it relates to him may also be quashed.

4. Detailed arguments have been advanced by the learned counsel for the petitioner as also the learned counsel for respondents 4 and 5. The learned Director General of Prosecutions, who had entered appearance, had informed the Court on earlier that the State has no objection in the F.I.R. being quashed in its entirety – in so far as it relates to the petitioner also.

5. The only quarters from which there was objection against the quashing of the F.I.R. was from respondents 4 and 5 – representatives of the Cochin Port Trust. The learned counsel for the petitioner has advanced detailed arguments against the

prayer for quashing of the proceedings. He does not, of course, advance a contention that the F.I.R., in the form in which it was registered – under the Foreigners Order, is liable to be sustained. He urged only a contention that the complaint reveals valid allegations under Secs.280, 283, 431 and 441 of the IPC.

6. I have spent a lot of time for hearing the learned counsel for the petitioner as also the learned counsel for respondents 4 and 5. But it turns out that it was unproductive expenditure of time of the court as the learned Public Prosecutor, towards the fag end of the submissions, reports that the investigation has already been complete and a negative final report referring the crime has already been filed by the police, after investigation. The final report has already filed on 28/8/07, submits learned Public Prosecutor. It is referred on the ground that the dispute is one of a civil nature.

7. It is now very evident that the prayer in this Crl.M.C. has now become infructuous and unnecessary. Crime having already been investigated and a refer report having been filed, there is no necessity to issue any further directions in this

Crl.M.C.

8. This Crl.M.C. is accordingly dismissed accepting the submissions of the learned Public Prosecutor that the crime has already been referred after complete investigation.

(R. BASANT, JUDGE)

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